HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 374 OF 2007.

Ashok Ramchandra Navale. ..Appellant.

Versus.

Ramdas Maruti Annarase. ..Respondent.

P.J. Pawar for the appellants.

CORAM: A.S.OKA, J.
DATE: DECEMBER 7, 2007.

P.C.

1. The appellant is the original plaintiff. The appellant filed a petition for grant of probate of the alleged will. As there was a contest to the said petition, the said petition was converted into a suit. The suit was dismissed by the trial Court and a decree of the trial Court has been confirmed in appeal.

2. Learned counsel for the appellant submitted that the fingerprint expert to whom the disputed will as well as the registered sale deed (Exhibit-76) were sent for comparison of the thumb impression, has found the said sale deed unsuitable for comparison. He, therefore, submitted that there was no occasion for the Courts below to hold that the disputed will does not bear the thumb impression of deceased - Sarubai.

3. I have considered the submissions. Perusal of the impugned judgments and in particular the judgment of the appellate Court shows that after the earlier report was received from the finger prints expert, on 16th January 2001, on application at Exhibit-85 made by the respondents, the learned trial judge directed that the relevant document shall be forwarded to the Director of Finger Prints Bureau, Government of Maharashtra. The appellate Court observed that not only the appellant failed to challenge the said order, but in fact at Exhibit-91 the appellant filed a reply seeking a direction to the respondent to immediately comply with the order passed on application at Exhibit - 85.

4. After comparison of the thumb impressions on the relevant documents, the expert submitted a report holding that the admitted thumb mark of the deceased was different from the alleged thumb impression of the deceased appearing on the disputed will.

5. In view of the aforesaid finding based on the report of the expert appointed by the State Government, it is not possible to interfere with the finding recorded that the will was not proved by the appellant. There is no substantial question of law involved in the appeal. Second appeal is accordingly dismissed. No order as to costs.

(A.S.OKA, J.)